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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,938	06/27/2001	Keith A. Merwin	D-7173-1	5571

7590 09/12/2003
Arthur G. Yeager, P.A.
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Jacksonville, FL 32202

EXAMINER

HOOSAIN, ALLAN

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 09/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,938

Applicant(s)

MERWIN ET AL.

Examiner

Allan Hoosain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-14 are objected to because of the following informalities: A claim should be in the form of one paragraph and have a single period at the end. The periods after the “A” through “Q” in the claims are improper. For this Office action, Examiner has interpreted the periods as dashes. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-3,6-7,10-14,15,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brown et al.** (US 4,972,461) in view of **Kelly, Jr.** (US 4,941,168).

As to Claims 1-3,6-7,10-14,15,18, with respect to Figures 2-6, **Brown** teaches a method of scheduling and receiving by a user a reminder call from an automated computerized voice message storage and redelivery system (SRS) comprising the steps of:

A - providing to the SRS when a reminder call is to be made by the SRS (Figure 2, label 222 and Figure 3, labels 312-315);

B - providing to the SRS each telephone number that is to be called by the SRS to deliver a reminder call (Figure 2, label 215);

C - providing to the SRS the message to be included in the reminder call (Figure 2, label 216);

D - recording by the SRS the information provided in steps A, B, and C (Figures 2-3);

E - calling a telephone number of step B as provided in step A (Figure 4, labels 401-404);

F - if the telephone number of step E is answered, determining by the SRS of a human voice or digital voice has answered the telephone (Col. 12, line 62 through Col. 13, line 2; and Col. 15, line 62 through Col. 16, line 6); and

Brown does not teach the following limitation:

“G - selecting the manner in which the message of step C will be delivered based upon the determination of step F”

However, it is obvious that **Brown** suggests the limitation. This is because **Brown** teaches that answering parties could be answering machines (Col. 16, lines 1-6). **Kelly, Jr.** teaches

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distinguishing between human recipients and answering machines when delivering messages (Col.3, lines 55-64). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add selective message delivery capability to **Brown's** invention for delivering messages to humans or answering machines as taught by **Kelly, Jr.'s** invention in order to provide message delivery to various types of equipment.

5. Claims 1-3,6-7,10-14,15,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brown** in view of **Kelly, Jr.** and further in view of **Pershan** (US 5,260,986).

As to Claims 4-5,16-17, **Brown** teaches the method of claim 2 further including the step of:

Brown does not teach the following limitation:

“I – if an AAA or VMS answers the telephone, requesting by the SRS that the call be transferred to another telephone number if such was recorded in step D”

However, it is obvious that **Brown** suggests the limitation. This is because **Brown** teaches obtaining forwarding numbers (Figure 5, label 518). **Pershan** teaches delivering messages to alternate telephone numbers (Figure 2, labels 62,64). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add alternate number capability to **Brown's** invention for delivering messages to recipients as taught by **Pershan's** invention in order to provide reliable and flexible message delivery services.

As to Claims 8-9, **Brown** teaches the method of claim 1 wherein step B includes the step of:

Brown does not teach the following limitation:

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“H – providing to the SRS more than one telephone number that is to be called”

However, it is obvious that **Brown** suggests the limitation. This is because **Brown** teaches obtaining forwarding numbers (Figure 5, label 518). **Pershan** teaches providing more than one telephone numbers (Figure 2, labels 62,64). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add alternate number capability to **Brown's** invention for delivering messages to recipients as taught by **Pershan's** invention in order to provide reliable and flexible message delivery services.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cox et al. (US 6,396,920) teach message delivery with transfer options to other telephones.

LaPorta et al. (US 6,014,429) teach message delivery to a plurality of destination devices.

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (703) 305-4012. The examiner can normally be reached on Monday to Friday from 7 am to 5:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


Allan Hoosain
Primary Examiner
8/25/03